

ST 02-0268-GIL 12/23/2002 MANUFACTURING MACHINERY AND EQUIPMENT

Manufacturing Equipment used by a manufacturer in nonoperational activities, such as disposal of waste, does not qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330(c)(3). (This is a GIL.)

December 23, 2002

Dear Xxxxx:

This letter is in response to your letter dated October 24, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

We are a molder/stamper of intricate small gage electrical connectors. We incur dust particles from the plastic molding and from metal stampings.

We are buying the enclosed Model#5280 Industrial Floor Cleaner.

We ask for a determination if it is exempt from sales/use tax either as Machinery Exemption or Pollution Exemption.

Thank you in advance for your kind assistance to this request.

Enclosed is a copy of 86 Ill. Adm. Code 130.330 concerning the Manufacturing Machinery and Equipment Exemption. In general, the Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease.

The manufacturing process is the production of articles of tangible personal property or assembling different articles of tangible personal property by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant, Section 130.330(b)(2).

Please note the exemption does not apply to hand tools, coolants, lubricants, solvents, apparel, adhesives and similar supplies, Section 130.330(c)(3). However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption.

The exemption is available for machinery or equipment that is used primarily in the general maintenance or repair of exempt machinery or equipment, Section 130.330(c)(2). However, machines or equipment used for general cleaning purposes, such as the floor cleaner about which you have made inquiry, do not qualify because Section 130.330 (d)(4)(F) states in part that nonoperational activities such as disposal of waste, scrap or residue is generally not considered to be manufacturing.

We have also enclosed a copy of 86 Ill. Adm. Code 130.335 concerning Pollution Control Facilities. The pollution control facilities exemption extends to "any system, method, construction, device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "pollution" is defined in the Environmental Protection Act (415 ILCS 5/1 et seq.), or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property."

No item qualifies for the Pollution Control Facilities exemption in and of itself. No transaction is exempt on the basis of the pollution control facilities exemption unless a certification is submitted pursuant to 86 Ill. Adm. Code 130.335(a). An item that can be used in both qualifying and non-qualifying activities must be used primarily in qualifying activities to qualify for the exemption. The Department will hold purchasers who claim the exemption liable for the tax if it is found that such purchasers do not use the items as pollution control facilities.

As a general proposition, factory cleaning machines or sweepers do not qualify for the pollution control facilities exemption if their primary purpose is to obtain an economic benefit.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:msk  
Enc.